Utah State Legislature

July 31, 2007

Senator D. Chris Buttars, Chair
Health and Human Services Interim Committee
9241 So. Lisa Ave.
West Jordan, Utah 84088

Representative Paul Ray, Chair
Health and Human Services Interim Committee
P.O. Box 977
Clearfield, Utah 84089

Subject: **Authority to Determine Criminal Penalties**

Dear Senator Buttars and Representative Ray:

The Administrative Rules Review Committee feels that the authority to determine what conduct is criminal, and could result in the incarceration of a citizen, should be exercised only by the Legislature, and that granting this authority to state agencies does not adequately protect the public. However, several current state laws grant authority to some state agencies to determine, by administrative rule, what constitutes a criminal act.

Attached is a list of state statutes granting agencies within your committee's oversight the authority to determine what conduct carries a misdemeanor, and in some cases a felony penalty. We ask that your committee carefully review these statutory grants and consider whether they should continue or be repealed.

In the 2007 General Session, the Legislature passed legislation repealing several similar grants. Prior to considering additional legislation, the Administrative Rules Review Committee seeks your committee's recommendation.

Please contact us with any questions you may have. Also, our staff will be briefing your staff on this issue. Thank you for your consideration of this important matter.

Sincerely,

Senator Howard A. Stephenson, Chair
Administrative Rules Review Committee

Representative Ben C. Ferry, Chair
Administrative Rules Review Committee

cc: Mark D. Andrews
Catherine J. Dupont
Thomas R. Vaughn